MEMO

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TO: The Transportation and Communications Committee (TCC)

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SUBJECT: SAFETEA Analysis

RECOMMENDED ACTION: Receive and File

SUMMARY:
On May 14th, President Bush released his TEA-3 reauthorization proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA). The proposal has been criticized by House Transportation and Infrastructure Chairman Don Young (R-Alaska), who has promised to pursue a $375 billion measure, an increase of $128 billion above the President's proposal.

BACKGROUND:
For fiscal years 2004 through 2009, the Bush Administration authorizes a total of $247 billion in SAFETEA for surface transportation programs—not a substantial increase from the $218 billion authorized in TEA-21.

Generally, California receives roughly 9% of aggregate six-year federal funds. The SCAG region generally receives half of California's share. In sum, overall **funding levels remain generally comparable to TEA-21 levels for the SCAG region.** However, there may be significant variations in apportionment levels based upon specific program category and some of the proposed programmatic changes.

A few more points on funding and other topical areas follow.

Funding:

- The House T & I Committee recommends a six-year funding total of $375 billion citing DOT's 2002 Conditions and Performance report, which calls for an annual investment level of $75 billion highway and transit capital to begin improving the nation's transportation infrastructure.

- Budgetary firewalls protect the highway category and the Trust Fund portion of the transit program. The firewall for highways is set at $196.4 billion over six years. The guaranteed portion of the transit program is set at $37.6 billion (the mass transit-account funded portion). Another $8 billion in General Fund revenues are authorized for the transit program, although these funds are not protected by the budgetary firewall as was the case under TEA-21. This could mean that the General Fund portion of funds authorized for transit might not be appropriated. This is particularly problematic for transit programs like New Starts.

- RABA is modified so annual funding level adjustments are more dependent on the levels of actual receipts rather than future anticipated receipts.

- SAFETEA continues the Minimum Guarantee provision of TEA-21, authorizing additional funds for allocation to ensure that a state's percentage of total apportionments is at least 90.5% of its contribution to the HTF. Half of the amount would be apportioned to the states for IM, NHS, STP, bridge, CMAQ, and Highway Safety Improvement. The other half would be allocated to the states for flexible uses provided under the STP

Safety:

- The Administration proposes a new core highway safety improvement program at $1 billion in FY 2004, growing to $1.5 billion in FY2009. This would replace the existing Surface Transportation Program safety set-aside.

- The several safety programs administered by the National Highway Traffic Safety Administration are combined into a consolidated grant program.

Highway Program Flexibility:

- SAFETEA eliminates most discretionary highway grants and makes these funds available for the same purposes under the core highway formula grant programs. Examples: The set aside funds for the Interstate Maintenance Discretionary program, set aside for Bridge Discretionary Program, and the Public Lands Discretionary Program.

New Starts:

- The state and local share increases for transit New Starts projects to 50%, while retaining the 20% share for highway projects. For purposes of fairness, is important to maintain consistent levels of match requirements for both highways and transit.

Maglev:

- SAFETEA reserves to the states and designated transit funding recipients the right to carry out selection of federally funded projects in transportation plans and programs. Intra-regional authorities, like those involved in Maglev, are not included.

- The maximum amount of credit available for TIFIA financing is $2.6 billion. More is needed for Maglev.

- No funding is provided to state infrastructure banks to finance Maglev predeployment planning.

- MPOs are not designated as recipients for federal funds for deployment of intra-regional projects.

CMAQ:

- The CMAQ apportionment formula is changed to include nonattainment and maintenance areas for fine particulate matter (PM-2.5) and for ozone under the new eight hour standard. The EPA is expected to designate these areas as nonattainment in 2004, which is expected to represent a large expansion in the number of US citizens residing in nonattainment areas.

Based upon preliminary analysis, California will likely lose roughly between 8% and 9% of its CMAQ funding as the result of the expansion if we hold aggregate authorization level constant. However, due to the proposed increase in the authorization level over the six-year period of roughly 9%, California's share of CMAQ funds will likely remain at the level provided under TEA-21. Moreover, FHWA staff contends that Minimum Guarantee funds will likely make California whole dollar-for-dollar if there is any loss in CMAQ funding. Assuming no change in the CMAQ funding level for California, the SCAG region in total holds its share of funds at TEA-21 levels as well, although areas like Ventura will likely see a large percentage decrease. Remaining at TEA-21 levels, however, is simply not enough to move forward with projects and programs that help reduce transportation related emissions. The overall size of the CMAQ funding level should be increased substantially.

Conformity:

- In federal non-attainment and maintenance areas, SAFETEA combines the Transportation Conformity Finding of the RTP and TIP into a single conformity determination (the TP) and extends the minimum update cycle from every three years to every five years. The TP planning horizon year remains twenty years.

- For the last year of that horizon, SAFETEA establishes a minimum ten-year time period for conformity analyses. The ten-year minimum is extended if a SIP emissions budget extends beyond ten years or if approved projects have completion dates beyond ten years. In the outyears, MPOs prepare regional emissions analyses for information purposes only, with the results used in subsequent conformity updates.

Goods Movement:

- SAFETEA requires states to dedicate 2% of their National Highway System (NHS) funds for highway connections between the NHS and intermodal freight facilities, such as ports and rail terminals.

- SAFETEA also allows STP funds to be used for publicly owned intermodal freight transportation projects (including rail components) and allows private freight rail projects to qualify for the Transportation Infrastructure Finance and Innovation Act (TIFIA) credit enhancement program.

- SAFETEA replaces TEA-21's Border Infrastructure Program with the Border Planning Operations and Technology Program to explore binational planning efficiency. TEA-21's Corridor Planning and Development Program is also replaced with SAFETEA's MultiState Corridor Planning Program to encourage the meeting of evolving freight and passenger needs.

Innovative Finance:

- SAFETEA encourages private investment in transportation infrastructure by permitting state and local governments to issue tax-exempt private activity bonds for all highway and transit projects.

- Moreover, the TIFIA program project cost threshold is lowered from $100 million to $50 million in order to increase access to government loan assistance.

- Tolling provisions are included, allowing states to charge tolls on federal-aid highways, including the Interstate System, provided that funds are re-invested in the facility and that the tolls are established as part of a congestion or air quality management plan.

- Also, SAFETEA would allow states to permit single occupancy vehicles on HOV lanes, within the context of a variable pricing program.

MPOs:

- MPO certification under SAFETEA extends from 3 to 5 years. Failure to certify results in the withholding of federal transportation funds.

- Planning requirements under FHWA and FTA are consolidated into a single section.

FISCAL IMPACT:
All work related to adopting the recommended staff action are contained within the adopted FY03/04 budget and adopted 2003 Legislative Program and does not require the allocation of any additional resources.

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